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FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

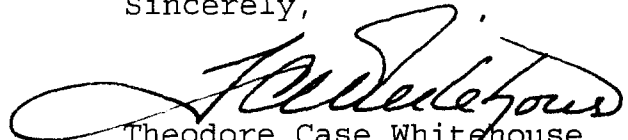
Re: CC Docket No. 97-231, Application By BellSouth
Corporation, BellSouth Telecommunications, Inc.
and BellSouth Long Distance, Inc. For Provision
Of In-Region, InterLATA Services in Louisiana

Dear Ms. Salas:

Enclosed please find an original and six copies
of the Association of Directory Publishers' Comments
concerning the above-referenced Application. In addition
to the original and six copies, we also attach a diskette
version of the filing formatted in WordPerfect 5.1 (read
only).

If you have any questions concerning this filing,
please contact the undersigned.

Sincerely,



Theodore Case Whitehouse
Counsel for the Association
of Directory Publishers

Attachments

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046
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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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FILED
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of

Application of BellSouth Corporation,
BellSouth Telecommunications, Inc., and
BellSouth Long Distance, Inc.
Pursuant to Section 271 of the
Communications Act of 1934, as amended,
To Provide In-Region InterLATA
Services in Louisiana

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) CC Docket No. 97-231
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COMMENTS OF THE ASSOCIATION OF DIRECTORY PUBLISHERS

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25 November 1997

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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
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Application of BellSouth Corporation,) CC Docket No. 97-231
BellSouth Telecommunications, Inc., and)
BellSouth Long Distance, Inc.)
Pursuant to Section 271 of the)
Communications Act of 1934, as amended,)
To Provide In-Region InterLATA)
Services in Louisiana)

COMMENTS OF THE ASSOCIATION OF DIRECTORY PUBLISHERS

The Association of Directory Publishers ("ADP"),¹ by its attorneys, hereby submits its comments concerning the above-captioned application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc.

I. INTRODUCTION AND SUMMARY.

As part of the Telecommunications Act of 1996, Congress enacted Section 222(e) to bring competition to the telephone directory advertising (yellow pages, Internet, etc.) and publishing market, an area in which meaningful competition has traditionally been blocked by the LECs. Section 222(e) requires LECs to sell the subscriber list information that they gather as

¹ ADP is a ninety-nine year-old international trade association representing the interests of "independent" telephone directory publishers, that is, publishers of white and yellow pages telephone directories that compete with the Regional Bell Operating Companies ("BOCs") and other local exchange carriers ("LECs") in the sale of telephone directory advertising (primarily yellow pages classified advertising). ADP's more than 175 member publishers produce some 2,200 telephone directories serving communities throughout the United States.

an inevitable by-product of providing local telephone service -- the name, address, telephone number, and business classification -- to competing directory publishers on a "timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions." Because LECs are the sole source of such data, the LECs' provision of listings on reasonable terms is essential to the opening of the directory advertising/publishing market.

Unfortunately, BellSouth has failed to comply with Section 222(e) and has instead attempted to maintain its monopoly over the sale of telephone directory advertising in its home markets:

- BellSouth is pricing its listings unreasonably by admittedly charging whatever the market will bear and earning profits of 1,300% or higher;
- BellSouth discriminates against competing directory publishers by refusing to sell them CLEC listings or updates, both of which BellSouth obtains at no charge as a condition of interconnection and provides at no charge to its directory affiliate, BAPCO; and
- BellSouth is using its market power over listing information to erect entry barriers and monopolize the Internet directory market.

BellSouth's unwillingness to comply with Section 222(e) in order to perpetuate its directory advertising monopoly raises serious concerns about BellSouth's willingness to open its local monopoly markets to competition, as required by Section 271. BellSouth's attempts to thwart competition in the directory publishing market warrant denial -- or an explicitly conditional grant -- of its application to provide interLATA services in Louisiana.

Section 271 is designed to create incentives for the LECs to open their local monopoly markets to competition. The primary focus is on the competitive provision of local telephone service. Competitive provision of local telephone service is expected to provide substantial consumer benefits in the form of greater choice, lower prices, and enhanced innovation.

Fully competitive provision of telephone directory services is likely to complement and reinforce local telephone service competition. For example, competitive local exchange carriers may chose to offer branded directories to complement and promote their telephone services. Competing directory publishers are likely to offer consumers a variety of user-friendly directory services designed to make the increasing variety of telephone service providers and options more accessible and understandable.

For these reasons, the Commission should take full advantage of the incentives designed into the Section 271 process to require BellSouth to comply fully with Section 222(e) of the Act *before* BellSouth is awarded the privilege of entering the long distance business. Given BellSouth's record of non-compliance with Section 222(e), the Commission should either (1) deny BellSouth's application or (2) condition the effectiveness of a grant of the application on BellSouth's prior demonstration of full compliance with Section 222(e).

II. BACKGROUND.**A. ADP'S Experiences With BellSouth Are Relevant To This Proceeding.**

As part of its Section 271 review, the Commission has stated that it "would be interested in evidence that a BOC applicant has engaged in discriminatory or other anticompetitive conduct, or failed to comply with state and federal telecommunications regulations."² Evidence that a BOC has engaged in a pattern of discriminatory conduct, said the Commission, "would tend to undermine" BOC's claims that its local market is or will remain open to competition once the BOC has received Section 271 authority.³ As discussed below, BellSouth has failed to comply with the requirements of Section 222(e) by restricting access to listings to foreclose competition in the directory advertising/publishing market. Such behavior warrants careful consideration and an explicit resolution in the context of BellSouth's Section 271 application.

B. Section 222(e) Was Enacted To Open The Directory Advertising/Publishing Market To Competition.

Subscriber list information is the heart of the telephone directory advertising/publishing market. With these listings, publishers are able to publish directories that are useful to consumers, to sell yellow pages and Internet advertising to local businesses, and to distribute directories to end users. Without

² See Ameritech Michigan Section 271 Order, FCC 97-298, CC Docket No. 137 ¶ 397 (rel. Aug. 19, 1997).

³ Id.

such listings, a publisher would be unable to publish a useful directory and thus would be unable to compete for advertising or to deliver its books to consumers.

LECs are the sole source of subscriber list information. As noted in the House Report, "LECs have total control over subscriber list information."⁴ A recent report of the U.S. Copyright Office concluded that telephone directory listings are a "prototypical example" of sole source data because it is "simply not possible" for listings to be obtained "independently" of the LEC.⁵ BellSouth has conceded this point, admitting that it has no competitors for the sale of its subscriber list information to directory publishers.⁶

Historically, LECs refused outright to sell or otherwise license subscriber list information to competing directory publishers.⁷ Of those that did sell listings, many imposed pricing and other terms that were so excessive as to constitute a virtual refusal to deal.⁸ Other exclusionary practices have included a refusal to provide updated subscriber list information (e.g., change of addresses, new connects,

⁴ See H.R. Rep. No. 104-204, Part I., 104th Cong., 1st Sess. 89 (1995).

⁵ See *Report on Legal Protection For Databases* 102 (U.S. Copyright Office 1997).

⁶ See Testimony of BellSouth Witness Juneau before the Florida PSC (Jan. 13, 1997) at 132-133 & 156, Exhibit 3.

⁷ See H.R. Rep. No. 104-204, Part I., 104th Cong., 1st Sess. 89 (1995).

⁸ Id.

disconnects). To prevent LECs from continuing their anticompetitive behavior towards their directory publishing competitors, Congress enacted Section 222(e). That section provides, in pertinent part:

Subscriber List Information. - . . . a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

According to Representative Paxon, Section 222(e) "is a simple requirement to protect an area of telecommunications where there has been competition for more than a decade, but where service providers have used pricing and other terms to try to limit that competition. Now we are prohibiting such anticompetitive behavior."⁹ Thus, Section 222(e) "guarantees independent publishers access to subscriber list information at reasonable and nondiscriminatory rates, terms and conditions from any provider of local telephone service."¹⁰

III. BELL SOUTH HAS NOT COMPLIED WITH SECTION 222(e).

A. BellSouth's 1,300% Profit On The Sale Of Its Listings Violates Section 222(e).

Section 222(e) requires that BellSouth -- like all LECs -- provide its subscriber listings to directory publishers under "nondiscriminatory and reasonable rates, terms, and conditions."

⁹ See Floor statement of Representative Bill Paxon, 142 Cong. Rec. E184 (daily ed. Feb. 6, 1996) (discussing reasons for passing Section 222(e)).

¹⁰ See Conf. Rep. No. 230, 104th Cong., 2d Sess. 205 (1996).

BellSouth admittedly earns a 1,300% profit on the sale of its listings and therefore it fails to comply with Section 222(e).

In Louisiana, BellSouth provides subscriber list information to directory publishers under a "Directory Publishers Database Service" tariff.¹¹ The tariff price for basic listings is \$0.04 (4¢) per listing.¹² The same tariff price is used in Florida where BellSouth has submitted documents to the Florida PSC showing that its cost per listing is \$0.003.¹³ As BellSouth has admitted, its 4¢ listing price yields a profit of 1,300% per listing.¹⁴ Thus, for example, BellSouth charges \$40 for a group of listings that cost it only 3¢. On its face, this profit margin is unreasonable.

BellSouth, however, attempts to justify its huge profit margin on the grounds that competing directory publishers purchasing BellSouth's listings are able to publish their books profitably. According to BellSouth witness Juneau, it is entirely reasonable for BellSouth to sell 100,000 listings (which cost it only \$300) for \$4,000 because the purchasing "publisher then has the opportunity to sell thousands if not hundreds of thousands of dollars of advertising."¹⁵ In other words, the more

¹¹ See Louisiana Tariff ("Tariff") which is attached as Exhibit 1.

¹² See id. at A.38.2.3.A, Exhibit 1.

¹³ See BellSouth Cost Study, Exhibit 2.

¹⁴ See Juneau Testimony at 130, 145, & 162, Exhibit 3.

¹⁵ See Juneau Testimony at 130, Exhibit 3.

profitable the listings are to purchasers (publishers), the more BellSouth will charge.¹⁶ Or, as BellSouth's own witness put it, the 4¢ price per listing (and accompanying 1,300% profit) is "a market rate" which "is based on what the market would bear."¹⁷ In a "market" like the one for directory listings, in which there is only one seller (the LEC), market pricing is just a euphemism for monopoly pricing. Even monopolists rarely earn 1,300% profits.

That BellSouth is able to charge these kinds of prices reflects the fact that it is the sole source of its subscriber list information.¹⁸ BellSouth's monopoly power is evidenced in its tariff which charges a different price for the same listing information depending on how it will be used:

- (1) use in a single, printed directory is 4¢/listing;
- (2) use in multiple printed directories is 12¢/listing; and
- (3) use in a CD-ROM directory is 18¢/listing.¹⁹

These prices yield profits far in excess of the 1,300% margin on basic listings. At 18¢/listing, BellSouth earns a 6,000% profit on the sale of its listings for publication in a CD-ROM directory.²⁰ A mere 4,000% profit is earned when those same

¹⁶ BellSouth's listing prices are based on "the value that the service has to the user" of the directory as opposed to cost plus a reasonable profit. See id. at 189, Exhibit 3.

¹⁷ See Juneau Testimony at 131, Exhibit 3.

¹⁸ See Part II.B., *supra*.

¹⁹ See Louisiana Tariff at A.38.2.3.1, Exhibit 1.

²⁰ With a cost of \$0.003/listing, BellSouth earns 6,000% profit when selling listings for CD-ROM directories at 18¢/listing.

listings are sold to a publisher intending to use them in more than one printed directory.

There is no reasonable basis for charging different listing prices based upon the type of directory in which the listings will be used. Such naked, monopolistic price discrimination is designed to divert profits to BellSouth from competing directory publishers. Such tactics are anticompetitive and serve only to hinder competition by permitting BellSouth to discourage competition by making it unprofitable. That is precisely what Congress sought to prohibit in Section 222(e).

B. BellSouth Unlawfully Favors Its Directory Affiliate Over Competing Directory Publishers.

As a condition of interconnection, BellSouth requires CLECs to provide to its directory affiliate, BAPCO, CLEC listings and daily updates -- new connects, disconnects, and change of address -- at no charge to BAPCO. BellSouth refuses to provide (or require the provision of) such CLEC listings to competing directory publishers. Such blatant favoritism towards BAPCO violates Section 271's command of "nondiscriminatory" treatment and merits a public interest finding against grant of BellSouth's Section 271 application.

1. CLEC Listings.

As part of its interconnection agreements, BellSouth requires CLECs to enter into agreements with its directory

BellSouth has explained that CD-ROMs provide a "greater value" to end users and thus BellSouth should be able to extract a greater price from purchasers. See Juneau Testimony at 148-49, 151, & 161-62, Exhibit 3.

affiliate, BAPCO.²¹ In both its interconnection agreements and corresponding directory listings agreements, BellSouth obligates CLECs to turn over their "directory listings and daily updates to those listings" to BellSouth and BAPCO.²² Such listings must be turned over at the CLEC's expense "and at no charge" to BAPCO.²³ These provisions ensure that BellSouth's directory will be complete and that BAPCO will be able to solicit CLEC customers for directory advertising.

BellSouth, however, seeks to obtain these advantages only for itself; it refuses to provide (or require the provision of) CLEC listings to competing directory publishers. According to BellSouth, CLEC listings are obtained by BAPCO via a contractual relationship separate from BellSouth and therefore they need not be shared with competing directory publishers.²⁴ That argument is false and flies in the face of Section 222(e).

The BAPCO contract is entered into as part of the interconnection agreement with BellSouth. For example, BellSouth's interconnection agreement with WinStar Wireless, Inc.

²¹ See, e.g., Sprint Spectrum Agreement Section XI, Appendix B, Tab 30 to BellSouth's Application; WinStar Agreement § 6.13, Appendix B, Tab 8 to BellSouth's Application.

²² See, e.g., Sprint Spectrum Agreement Section XI. & Attachment C-1, Appendix B, Tab 30 to BellSouth's application.

²³ See Sprint Spectrum Agreement, Attachment C-1, Appendix B, Tab 30 to BellSouth's application.

²⁴ BellSouth has rejected numerous requests for CLEC listings from ADP member and Louisiana publisher, The Sunshine Pages. See Exhibit 4.

states that it is "[s]ubject to execution of an agreement between . . . BAPCO, . . . the execution thereof to be a condition precedent to the effectiveness of this Agreement with respect to Directory Listings and Directory Distribution."²⁵ Thus, BAPCO's contract is entered into as part and parcel of the CLEC's interconnection agreement with BellSouth. More importantly, because the BAPCO agreement is linked to BellSouth's interconnection agreements, the CLEC listings are gathered as part of BellSouth's provision of local service. Thus, they are expressly required to be sold to competing directory publishers pursuant to Section 222(e) on reasonable rates, terms, and conditions. That they are not constitutes a violation of Section 222(e).

2. Updates.

BellSouth is also required to sell updated listings to competing directory publishers.²⁶ Such listings -- new connects, disconnects, and change of address -- are used by publishers to (1) sell directory advertisements to new businesses, (2) deliver directories to new customers, and (3) maintain accurate and complete databases of directory listings. For those very

²⁵ See WinStar Agreement § 6.13.a, Appendix B, Tab 8 to BellSouth application.

²⁶ Section 222(e) "is intended to ensure that [independent directory publishers] are able to purchase . . . subscriber listings and updates." See H.R. Rep. No. 104-204, Part I., 104th Cong., 1st Sess. 89 (1995) (emphasis added).

reasons, BellSouth provides BAPCO with daily updates.²⁷ The essential nature of updates is highlighted by BellSouth's requirement that *CLECs* provide it and BAPCO with updated listings on a "daily" basis."²⁸ Although BellSouth offers various tariffed update services, those services impose conditions so onerous as to constitute a refusal to deal.²⁹

For example, BellSouth recently altered its pricing scheme for its Weekly Business Activity Reports ("WBAR") tariff in a manner rendering the service too expensive for competing directory publishers. Until recently, publishers subscribing to the WBAR had received and were charged only for the changed numbers in the NXX, *i.e.*, new connects, disconnects, transfers, and changes of address. Recently, BellSouth altered its fee structure such that it still provides only the changed listings but *charges publishers for all the listings in the entire NXX.*³⁰ Thus, what traditionally cost competing publishers only a few hundred dollars a month now costs several thousand dollars. At least one Louisiana Publisher and APD member, The Sunshine Pages,

²⁷ See Juneau Testimony at 125-126, Exhibit 3 (stating that BAPCO receives daily updates to allow it "to sell advertising and to distribute[] directories").

²⁸ See, e.g., PrimeCo Agreement Section X, Appendix B, Tab 28 to BellSouth application; Sprint Spectrum Agreement Section XI, Appendix B, Tab 30 to BellSouth application.

²⁹ An offer to deal on unreasonable terms is a type of refusal to deal. See Fishman v. Wirtz, 807 F.2d 520, 450 (7th Cir. 1986); Delaware & Hudson Railway Co. v. Consolidated Rail Corp., 902 F.2d 174, 179-180 (2d Cir. 1990).

³⁰ See Exhibit 5.

has canceled access to the WBAR because it is "cost prohibitive."³¹

In altering its charges for the WBAR, BellSouth also revised its tariff to include other update options, such as a Daily Update Report and a New Connect Report. These options were to take effect on October 1, 1997. At this time, however, they remain unavailable. Moreover, even if available, those options are priced onerously as the tariff expressly states that "the ordering customer(s) would be required to pay BellSouth a minimum of the *entire cost of service development*."³² BellSouth, however, has failed to provide any estimates of the development costs for these services. Hence, at this time, the services are unavailable and, in any event, their costs are unknown. BellSouth should be not granted Section 271 authority at a time when it provides both CLEC listings and daily updates to itself while denying them to competing directory publishers.

C. BellSouth Is Excluding Competitors From The Internet Directory Business.

BellSouth is attempting deliberately to foreclose competition in the Internet directory business by forcing directory publishers to obtain listings under BellSouth's directory assistance tariff. Such actions violate Section 222(e) and suggest a bleak forecast for the type of compliance that may be expected of BellSouth in the Section 271 context.

³¹ Id.

³² See Louisiana Tariff at A.38.2.1.C, D, & E, Exhibit 1.

As noted, BellSouth sells listings to directory publishers in Louisiana through a Directory Publishers Database Service ("DPDS") tariff. By its terms, the DPDS tariff does not encompass the sale of listings for use in an Internet directory and BellSouth will not permit listings sold under this tariff to be used in Internet directories.³³ Rather, BellSouth asserts that Internet directories are directory assistance and therefore it will permit listings to be used for Internet directories only when such listings are purchased under BellSouth's *directory assistance* tariff.³⁴ That tariff, however, requires the Internet publisher to pay BellSouth 3.5¢ each time the Internet directory is accessed. Thus, the more popular and useful the directory, the more expensive the listings become. According to one Louisiana publisher, The Sunshine Pages, BellSouth's "open ended cost [structure for Internet listings] prohibits us from including this product in our directory and directly damages our ability to compete in the global marketplace."

Section 222(e) requires BellSouth to provide reasonable and nondiscriminatory access to listings for use in "publishing directories in any format." That term plainly encompasses directories published over the Internet. BellSouth should not be permitted to provide interLATA services in Louisiana until it has

³³ See Louisiana Tariff, at A.38.2.1.A, Exhibit 1; Juneau Testimony at 107 & 182, Exhibit 3.

³⁴ See *id.* at 114 & 182-88.

complied fully with Section 222(e) and eliminated its discrimination against publishers of Internet directories.

IV. CONCLUSION

For the foregoing reasons, the Association of Directory Publishers respectfully submits that the Commission should either (1) deny BellSouth's application to provide interLATA services in Louisiana or (2) grant it conditionally upon BellSouth's demonstrating to the Commission's satisfaction -- before its authorization to provide long distance service becomes effective -- that it has brought its practices with respect to listings into full conformity with Section 222(e). Such a showing would require, at a minimum, that BellSouth charge rates reflecting only incremental costs and a reasonable return and that listings and updates be available to all directory publishers on terms no less favorable than those available to BAPCO.

Respectfully submitted,

THE ASSOCIATION OF
DIRECTORY PUBLISHERS

By: 

Theodore Case Whitehouse
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1155 21st Street, NW
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Its Attorneys

25 November 1997

CERTIFICATE OF SERVICE

I, Robin D. Smith, do hereby certify that on this 25th day of November, 1997, copies of the foregoing "Comments of the Association of Directory Publishers" were hand delivered, unless otherwise indicated, to the following parties:

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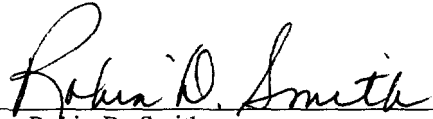
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Robin D. Smith

EXHIBITS LIST

- | | |
|-----------|---|
| Exhibit 1 | BellSouth's tariff for the sale of listings in Louisiana |
| Exhibit 2 | BellSouth cost study in support of its Florida tariff |
| Exhibit 3 | Testimony of BellSouth witness Juneau before the Florida PSC |
| Exhibit 4 | BellSouth letter refusing to provide CLEC listings to directory publishers and confirmation of same by The Sunshine Pages |
| Exhibit 5 | Letter from The Sunshine Pages to BellSouth canceling subscription to BellSouth's update service because of the large price increase due to BellSouth's new method of calculating charges |

** All exhibits relate to the public interest arguments raised by ADP. All exhibits are on file with the Commission but have not been submitted in electronic format.

EFFECTIVE: September 15, 1995

A38. LISTING SERVICES

A38.1 Directory Assistance Database Service (DADS)

A38.1.1 Description of Service

A. Upon request, the Company will provide local exchange subscriber name, address and telephone number listings (except as limited by D. following), solely for the customer's expressed purpose of providing Directory Assistance type services to its end users. The term "end user" denotes any entity who obtains Directory Assistance type services for its own use from a DADS customer. Directory Assistance type services are defined as:

1. Voice Directory Assistance (DA Operator or DA Operator System assisted), and
2. Electronic Directory Assistance (Data Systems assisted).

B. DADS is available and may be ordered on a Business, Residence or combined Business and Residence listings basis for each Central Office requested. The data provided will include all eligible listings as outlined in C. and D. following. (T)

C. DADS will include the following:

1. Base File

An extract containing all qualified listed names, addresses and telephone numbers of Company and Independent Telephone Company (to the extent permitted by contractual agreement with the individual Independent Telephone Companies) subscribers located in a requested NPA, which includes the following: (T)

- a. Listed Name - As input on the Company service order.
- b. Listed Address - House Number Prefix or Suffix, Street Name Prefix or Suffix, Address Prefix or Suffix, Community Name, State Name.
- c. Telephone Number
- d. Account NPA - Originating NPA
- e. Account NXX - Originating NXX
- f. Exchange Code - Originating Community Code
- g. Date - Current date of Extract/Update
- h. Directory Indicator - Alternate Community Name Indicator, if applicable indicator will be set for foreign directory name.
- i. Directory Name - Alternate Community Name, if applicable for foreign directory name listing.
- j. Unique Business/Residence/Government Indicator
- k. Phrase Codes - Special information regarding listing's telephone service (e.g., telephone observing equipment, teletype service for the deaf).

In addition to the preceding listed information, the customer may optionally request Non-Listed listings which will include the information defined in a., b. and c. preceding and/or Non-Published listings which will include information defined in a. preceding.

The Company will require sufficient time (approximately one month) after receiving an order to prepare the Base File.

2. Daily Updates

Daily updates will reflect all listing change activity occurring since the customer's most recent update. The updates are provided on a Business, Residence, or combined Business and Residence basis. The updates shall be used solely by the customer to keep his information current. Delivery of Daily Updates will commence the day after the customer receives his Base File.

A38. LISTING SERVICES

A38.1 Directory Assistance Database Service (DADS) (Cont'd)

A38.1.1 Description of Service (Cont'd)

- D. DADS is not a verbatim copy of the Company's Directory Assistance (DA) Database or of the Company's Directory. The following listings will not be provided with DADS:
 - 1. (DELETED) (D)
 - 2. (DELETED) (D)
 - 3. Secondary Listings
 - 4. (DELETED) (D)
 - 5. Listings that are deemed by the Company as inappropriate to provide
- E. The Company reserves the right to exclude any name at the request of the Company's subscribers.
- F. License fees, Cancellation fees, and Termination Liability fees for DADS are as set forth in A38.1.3 following.

A38.1.2 Regulations

- A. All right, title and interest in and to DADS, including all intellectual property rights pertaining thereto, will remain with the Company. The Company licenses the use of DADS to the customer. The title to DADS shall remain solely with the Company whether or not it is in the possession of a customer.
- B. Use of DADS shall be limited solely to the customer's provisioning of Directory Assistance type services as defined in A38.1.1 preceding.
- C. DADS may not be used for any purpose which violates federal or state laws, statutes, regulatory orders or tariffs.
- D. Except for the permitted uses, the customer shall not disclose DADS to others and shall use due care in providing for the security and confidentiality of DADS. The customer shall not rent, license or resell DADS for any purpose, nor shall customer permit its end users to do the same. The customers shall not reproduce DADS except for the preparation of archival or backup copies. Failure to comply with the provisions of this Tariff shall result in termination of the service and customer shall immediately return to the Company all copies of DADS in its possession and shall make no further use of DADS data. The Company may refuse to furnish the service when it has reasonable grounds to believe that such service shall be used in violation of this Tariff. Upon customer termination of DADS the customer shall return all copies of DADS or provide adequate written proof that the data has been removed from their system and destroyed.
- E. The minimum service period for DADS is twelve (12) months. The regulations as set forth for deposits and payment of service in A2.4 of this Tariff shall apply. If a customer cancels an order for the Base File prior to the scheduled delivery date, the customer shall pay the Company a cancellation fee as specified in A38.1.3.B. If a customer terminates his subscription to DADS on or after the scheduled delivery date of the Base File, termination fees are due as outlined in A38.1.3.C.
- F. The customer shall provide written specifications, signed by a duly authorized representative of the customer, for each DADS order. All orders must be confirmed in writing by the customer. The Company shall not be liable for any errors or deficiencies in the data provided. The customer agrees to release the Company from any and all liability which may arise due to any errors and omissions in the Company's listings.
- G. The customer shall protect, indemnify, save harmless and defend the Company from and against any and all loss, liability, damages and expense arising out of any demand, claim, suit or judgment for damages that may arise out of the Company's supplying of DADS or use of data contained therein irrespective of any fault, failure, or negligence on the part of the Company.
- H. Unless, expressly permitted, neither the customer nor its employees, agents or representatives shall represent in any way to any person or make any advertising claim that its directory assistance type service is sponsored or approved by the Company or that the Company or any of its affiliates are in any way connected with the customer or that the Company or any of its affiliates have any responsibility for the customers service.

**SOUTH CENTRAL BELL
TELEPHONE COMPANY**
LOUISIANA

ISSUED: August 16, 1995
BY: President - Louisiana
New Orleans, Louisiana

GENERAL SUBSCRIBER SERVICES TARIFF

Second Revised Page 3
Cancel First Revised Page 3

EFFECTIVE: September 15, 1995

A38. LISTING SERVICES

A38.1 Directory Assistance Database Service (DADS) (Cont'd)

A38.1.2 Regulations (Cont'd)

- L. Unless expressly permitted in writing, the customer, its employees, representatives or agents shall not use any methods of advertisement, solicitation, order form, billing invoice, stationery, promotional material or any articles or device which would tend to create the impression or imply that the customer was or is associated with or sponsored by the Company or any of its affiliates. In addition, the customer shall prominently display its name on each of the above and identify itself by name when providing directory assistance type services to its end users.
- J. The customer shall remit to the Company monthly an itemized statement of usage by Central Office.
- K. The customer shall make available to the Company upon request necessary records to allow the Company to audit the number of requests received from the DADS customer's end users. The Company may perform an audit at anytime. The results of the audit will be presented to be correct. The Company will adjust the customer's bill and will bill the customer per the results of the audit.
- L. The Company may terminate the service when it has reasonable grounds to believe that full payment is not being made.
- M. The customer will be billed a usage charge as determined by the Company in the event the customer does not report their usage on a monthly basis.
- N. Prior to receipt of the Base File the customer must provide the Company with a written plan outlining the method used to record and accumulate the amount of usage to be reported to the Company.

A38.1.3 Rates and Charges

- A. The following license fees apply for Directory Assistance Database Service.

1. (DELETED)
2. Use Fee¹

(b)

(a)	Per DADS Customer's End User Request	Rate \$4000	USOC NA
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(c)

3.	Monthly Recurring Rate	Monthly Rate \$150.00	USOC DBSAF
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(c)

B.	Cancellation Fees ²	(a)	Per month	Nonrecurring Charge \$-	USOC NA
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(c)

1. Prior to scheduled delivery of initial base file

(a) Per Cancellation

Note 1: DADS must be ordered for a minimum of twelve consecutive months.

Note 2: The accompanying cancellation fee will be computed to allow the Company to recover all cost incurred by the Company for work performed prior to cancellation.

(c)